

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
PATRICK MULLIGAN, DIRECTOR



SWEATFREE PROCUREMENT ADVISORY GROUP
Minutes from the February 16, 2023, 1:00 pm

Members Present: Jason Oringer, Conchita Lozano Batista, Coyote Codornices Marin, Julie Fisher,

Members Excused: Joyce Kimotsuki

City Staff Present: Pat Mulligan, Hallie Albert, Shawn Peeters, Sailaja Kurella

WRC Present: Ben Hensler; CAL Present: Avery Kelly, Charity Ryerson

CALL TO ORDER/INTRODUCTIONS

1. RETURN TO IN-PERSON MEETINGS

While waiting for members to join the meeting to obtain quorum, Hallie Albert took this item first and reviewed the March 1, 2023 Return to In-Person Guidelines. Albert will email the group the information on requesting a reasonable accommodation. The group will discuss if members of the public will be allowed to attend via teams.

2. ADOPTION OF AGENDA

With the change to hear the Return to In-Person Meeting item first, the February 16, 2023 meeting agenda was adopted without opposition.

3. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

No public comment.

4. APPROVAL OF MINUTES

The minutes from the meeting of January 12, 2023 meeting were reviewed and adopted without change or opposition.

5. WRC UPDATE

Ben Hensler from Workers Rights Consortium (WRC) provided an update to the group. As of November 1, 2022, WRC is back in contract with OLSE and the contract extends until Oct. 2025. There is a difference in WRC's approach to monitoring compared to past contracts, as it has now shifted to a complaint-based approach, as is done for the University and Los Angeles contracts. WRC will first analyze the supply chain information, which OCA provides, to determine priorities to conduct outreach at factories that are contracted to manufacturer for San Francisco. WRC will find groups that have relationships with those workers so workers can bring complaints to the group or directly to WRC. Then WRC will consult with OLSE to conduct investigations, perform an inspection if needed, and report to OLSE, identifying violations and providing recommendations for corrective action. This way investigations are more efficient and there is a continual flow of information because workers become empowered to engage the management and inform WRC of ongoing issues.

The trigger to start work was getting the current data and WRC just got it, so they will start going through it and analyze and produce a memo laying out an action plan. WRC will work with OCA and OLSE to get any needed information.

Shawn Peeters spoke to what he has been able to collect and reviewed the Purchase Orders released. OCA has the manufacturer information, but it may need to be refreshed. Peeters provided the remaining value on the contracts and is working to extend end dates on a few contracts. Suppliers are starting to provide required information and Frank Skubal from Banner has committed to getting Peeters the needed information so he can get it to WRC.

6. OCA UPDATE

Provided with the WRC Update.

7. CONTRACT RECOMMENDATIONS UPDATE

Conchita Lozano-Batista asked Corporate Accountability Lab (CAL) for language the SPAG can include for a jurisdictional prerequisite. Charity Ryerson said if OLSE cannot provide the function directly, it could be scrapped or there could be a requirement for an informal submission to the SPAG to initiate a mediation. Hensler said WRC has a lot of experience in handling worker complaints raising violations of the LA law or University contracts – WRC approaches the sub-contractor to correct the violation and define what the corrective action will be. There are agreements between brands and unions that contained arbitration clauses and the designated seat for arbitration is the Hague. Rules are crafted for those agreements that are then used for the labor arbitrations, and WRC could help connect the SPAG to those rules.

Lozano-Batista asked if it would be possible to put WRC as the first stop for the worker's complaint and then use the forum Hensler described in the contract. Hensler explained that WRC is not an adjudicator between workers and employers, but rather serves as a monitor.

Ryerson reviewed the need for a jurisdictional prerequisite and a discussion ensued amongst the group regarding how that will look if they require a complaint to be exhausted through the current WRC process. Ryerson left the meeting.

The group then discussed the liability cap. Avery Kelly explained that a cap would be attractive for several reasons, but principally used to not ensure contractors are not scared away from contracting with the City. Kelly asked if the cap would be on claims in the aggregate or individual claims? When would that cap reset? CAL could build the cap into the contract once the group determines what the cap is.

The discussion returned to the jurisdictional prerequisite and using the WRC model to serve as a complaint system to exhaust prior to allowing the third party to initiate a court action, whether in arbitration (as mentioned by WRC) or a court in San Francisco. If the complaint leads to an inspection and the resulting inspection report does not compel the manufacturer to cure the violations of the ordinance, a worker could use the report in any subsequent litigation. The ordinance requires a monitoring body, whether WRC or another, and the responsibility to investigate a worker complaint prior to allowing for third-party beneficiary litigation could be tied to that body/responsibility.

Kelly said it makes sense for the WRC process to serve as the jurisdictional prerequisite. Hensler and Kelly will provide something based on the discussion.

8. POTENTIAL ITEMS FOR FUTURE AGENDAS

Next meeting is in person on March 9, 2023 at 2pm in room 421. Hensler may be available, but only the first part so will put contract update at the top of the agenda. Also including OCA update and discussion to recruit members.